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EXAMINER	
DAILEY, THOMAS J	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/700,022	ULATE ET AL.	
	Examiner	Art Unit	
	Thomas J. Dailey	2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 November 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-61* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-61 are pending.

Response to Arguments

2. Applicant's arguments with respect to various prior art rejections have been considered but are moot in view of the new ground(s) of rejection. The applicant's remaining arguments where the examiner has maintained similar positions to that of the previous action are addressed below.

3. The applicant argues with respect to claims 15 and 33, that the prior art of record (specifically Chacker) fails to disclose classifying said recorded performance into subject matter comprising user-determined main categories and sub-categories.

4. The examiner disagrees. Chacker discloses a menu on a studio site allows user created categories and sub-categories in which recorded performances will be classified (column 10, lines 30-35; it is essential that all the categories be created by a user at some point, and further that users set the classification of the works; column 4, lines 51-54, discloses that the user's upload their recorded performances).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 20 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker (WIPO Pub. No. WO/2002/080519 A2), hereafter "Hohenacker," in view of Liu (US Pub. 2004/0125127), and in further view of Qian et al (US Pub. 2002/0189429), hereafter "Qian."**

7. Note that as Hohenacker '519 is the publication of the PCT which US PG Pub. 2005/0100311 (cited in a previous action) claims priority to (see '311 label 86 page 1: "PCT/EP02/01778" and Hohenacker '519, label 21 page 1: "PCT/EP02/01778") the examiner is utilizing US PG Pub. 2005/0100311 as the English translation of Hohenacker '519. Therefore all citations are taken from PG Pub. 2005/0100311. Support for this practice can be found in MPEP 901.05(III) which recites:

> Duplicate or substantially duplicate versions of a foreign language specification, in English or some other language known to the examiner, can sometimes be found. It is possible to cite a foreign language specification as a reference, while at the same time citing an English language version of the specification with a later date as a convenient translation if the latter is in fact a translation. Questions as to content in such cases must be settled based on the specification which was used as the reference.

8. As to claim 20, Hohenacker a method for placing a performance of a studio user on a studio site, said method comprising the steps of:

providing a studio in a public location wherein said studio comprises an audio and video recording capability ([0005], publicly accessible studio including camera and microphone [0074]);

registering to recording a performance to a studio user in said studio onto a studio server, wherein said registering comprises selecting a category and wherein said registering occurs outside said studio ([0079], a category (e.g. sing a song, quiz, etc.) is selected which determines how the recording session will precede; and [0083] discloses the user providing data via a telephone, i.e. it can be preformed outside the studio);

automatically providing instructions to said studio user for making a recorded performance based upon said category ([0079], instructions will be dependent on the category; e.g. a quiz will have different requirements than singing a song);

creating said recorded performance ([0063]); and

making said recorded performance accessible via streaming servers from a studio site maintained by a studio operator ([0093]).

But, Hohenacker does not explicitly disclose an unrecorded practice run.

However, Liu discloses video based on line interview system that includes the capability of having unrecorded practice runs ([0062], lines 1-11, and [0063]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the user to practice prior to any recording, as provided by Liu's teaching, so as to conserve memory and allow the user to have the best possible performance (i.e. practice makes perfect...).

Lastly, the above referenced prior arts do not explicitly disclose recording only a raw voice of a studio user.

However, Qian discloses a recording system and method which includes the use of headphones and the recording of only a raw voice of a performer (Fig. 2, label 55 and [0009]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Liu with Qian in order to allow users to record their singing and have it be played with other audio files (Qian, [0009]).

9. As to claim 30, Hohenacker discloses said studio user agrees to an exclusive agency contract with a studio operator ([0081]).

10. As to claim 31, Qian discloses said recorded performance consists of only a raw voice of said studio user wherein a microphone is used for said recorded performance while said studio user further uses headphones designed to minimize feedback produced by said microphone (Fig. 2, label 55 and [0009]).

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Liu, and Qian as applied to claim 20 in further view of Vizinia (US Pub. No. 2003/006029).

12. As to claim 21 Hohenacker, Liu, and Qian do not explicitly disclose wherein said database is queried for specific subject matter related to said category, wherein said subject matter comprises one or more categories selected from actors, comedians, performs, job seekers, organ donors, venture capitalists prior to accessing said recorded performance.

However, Vizinia discloses a database containing user uploaded content which can be queried by hiring managers for job seekers (Abstract) and actors/performers ([0055]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Liu, and Qian with Vizinia so as to provide a means for job seekers and hiring managers to contact while saving time (Vizinia, [0007]-[0008]).

13. Claims 24, 32-33, and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Liu, and Qian as applied to claim 20 in view of Chacker (US Pat. 6,578,008).

14. As to claim 24, Hohenacker, Liu, and Qian do not disclose a viewer purchases said recorded performance from a studio operator.

However, Chacker discloses a view purchasing an uploaded recorded performance from a studio operator (column 6, lines 63-65 and column 12, lines 48-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order for the studio to use the acquired recorded performances to earn a profit.

15. As to claim 32, Hohenacker, Liu, and Qian do not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.

However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

16. As to claim 33, Hohenacker, Liu, and Qian do not disclose a menu on said studio site allows user created categories and sub-categories.

However, Chacker discloses a menu on a studio site allows user created categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

17. As to claim 35, Hohenacker, Liu, and Qian do not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.

However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

18. As to claims 36, Hohenacker and Chacker disclose the invention substantially with regard to the parent claim, and further said studio

operator is automatically electronically notified via an email message when a performance exceeds a pre-determined ratings threshold. (Chacker, column 13, lines 23-28; with claims 3 and 4 disclosing such information may be disseminated via email).

19. As to claims 37, Hohenacker and Chacker disclose the invention substantially with regard to the parent claim, and further disclose an information seeker is automatically electronically notified via an email message when said recorded performance exceeds a pre-determined ratings threshold (Chacker, column 13, lines 23-28; with claims 3 and 4 disclosing such information may be disseminated via email).

20. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Liu, and Qian as applied to claim 20 in view of Maroney (US Pat. 2002/0103740).

21. As to claim 25, Hohenacker, Liu, and Qian do not discloses at least one information seeker bids to enter into contract negotiations with said studio user.

However, Maroney discloses a bidding system in which a bidder bids enter negotiations with a seller ([0026], “it is preferred that priority for admission to the second stage of negotiations be awarded by rank ordering the participants in the auction by the value of their final bid. Thus,

the participant having the highest final bid at the close of the auction is preferably the first invited to enter a bilateral negotiation with the domain name registrant."; Note Maroney's bidding system is not limited to domain name registry auctions, see for example claims 1 and 6, but is an exemplary embodiment, i.e. see claim 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Liu, and Qian with Maroney in order conduct fair auctions that benefit both a buyer and the seller.

22. **Claims 22, 29, and 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Liu, and Qian as applied to claim 20, in further view of what was well known in the art.**

23. As to claim 22, Hohenacker, Liu, and Qian do not explicitly disclose parental consent is provided by said studio user prior to making said recorded performance accessible. However, Official Notice is taken that it was well known in the art to first have the parental consent of minors prior to distribution of any their recorded performance, as it is usually required by law. Therefore it would have been obvious to incorporate this feature into Hohenacker's system so as to allow minors to fully utilize all the features and comply with known laws.

24. As to claim 29, Hohenacker, Liu, and Qian do not disclose said audio and video recorder enables said studio user to transmit only one recording from at least two performances recorded by said studio user in said studio.

However, allowing a user to make multiple recordings and uploading only one of those recording to a remote site would have been an obvious modification to one of ordinary skill in the art given the teachings of Hohenacker. Specifically, it is a common practice in the art to review, and if necessary rerecord poor performances, and only utilize one of the recordings. Therefore, Official Notice (see MPEP 2144.03) is taken that practice was well known in the art and is implemented in order allow the user to make errors and correct those errors.

25. As to claim 34, Hohenacker, Liu, and Qian do not disclose video conferencing between at least two studio users in at least two studios. However, Official Notice is taken that it was well known in the art to teleconference between two separate video studios. Therefore, given the teachings of Hohenacker's geographically separate studios connected to the Internet, it would have been obvious to one of ordinary skill in the art at the time of the invention allow video conferencing between those studios thereby creating broader appeal to the general public.

26. Claims 23, 27, 28, 38-39, 43, 44, 46-47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker in view of Chu et al (US Pat. 6,086,380), hereafter "Chu," in further view Qian.

27. As to claim 38, Hohenacker discloses a method of recruiting talent comprising:

providing an studio in a public place for at least one studio user to record a performance ([0005], publicly accessible studio including camera and microphone [0074]);

registering to recording said performance in said studio on a studio server, wherein said registering comprises selecting a category ([0079], a category (e.g. sing a song, quiz, etc.) is selected which determines how the recording session will precede);

automatically providing instructions to said studio user for making a recorded performance based upon said category ([0079], instructions will be dependent on the category; e.g. a quiz will have different requirements than singing a song);

making a recorded performance ([0063]);

transmitting said recorded performance to an information seeker ([0093]).

But, Hohenacker does not explicitly disclose the studio is both enclosed and in a public place, which provides for a private recorded

performance, nor that the instructions are automatically provided by an image on a video screen.

However, Chu discloses a recording studio that is both enclosed and in a public place, which provides for a private recorded performance (Fig. 1 and column 2, lines 39-48), and instructions are automatically provided by an image on a video screen (column 11, lines 21-26).

Therefore it would have been obvious at the time of the invention to combine the teachings of Hohenacker and Chu in order to provide for privacy when giving a recorded performance thus improving the overall user experience.

Lastly, the above referenced prior arts do not explicitly disclose recording only a raw voice of a studio user.

However, Qian discloses a recording system and method which includes the use of headphones and the recording of only a raw voice of a performer (Fig. 2, label 55 and [0009]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chu with Qian in order to allow users to record their singing and have it be played with other audio files (Qian, [0009]).

28. As to claim 23, Hohenacker, Liu, and Qian disclose the parent claim 20 and further disclose providing demographic information with the performance (Hohenacker, [0030]) but may not explicitly discloses a

professional media kit is produced from said input information and said recorded performance.

However, Chu discloses a professional media kit is produced from said input information and said recorded performance (column 16, lines 25-45, CD or VCR is made at the conclusion of the performance; as Chu allows for "a personal message" the demographic information disclosed in Hohenacker could easily be included with the professional media kit of Chu).

Therefore it would have been obvious at the time of the invention to combine the teachings of Hohenacker Liu, and Qian with Chu in order to increase revenue generation by provided a physical product to sell, e.g. CDs.

29. As to claims 27-28, Hohenacker, Liu, and Qian discloses the parent claim 20 but does not explicitly disclose said recorded performance is made using a Karaoke-style database where a studio user simultaneously views said recorded performance.

However, Chu discloses said recorded performance is made using a Karaoke-style database where a studio user simultaneously views said recorded performance (Abstract, Fig. 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker Liu,

and Qian with Chu in order to appeal to a larger audience, specifically those interested in Karaoke.

30. As to claim 39, Hohenacker discloses said studio user further provides demographic information ([0030]).

31. As to claim 43, Hohenacker discloses said demographic information is transmitted to a talent seeker ([0030]).

32. As to claim 44, it is rejected in a similar manner to that of claim 23.

33. As to claim 46, Chu discloses said recording is achieved with a Karaoke-style database wherebyl music is transmitted through at least one speaker inside said studio and words are displayed on a video/teleprompter screen (Abstract, Fig. 1).

34. As to claim 47, Hohenacker discloses said recording is achieved in an interview fashion whereby questions are transmitted through at least one speaker ([0008]).

35. As to claim 49, Hohenacker discloses said information seeker at further views said recorded performance from an internet connection ([0040]).

36. Claims 40 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Qian as applied to claims 38 and 39, and in further view of Vizina.

37. As to claim 40, Hohenacker, Chu, and Qian do not disclose a talent seeker may query for subject matter related to said category, wherein said subject matter comprises one or more categories selected from actors, comedians, performers, job seekers, organ donors, venture capitalists. ([0029]-[0030]; user data (i.e. performers) can be accessed for a later evaluation (i.e. accessing said recorded performance)).

However, Vizinia discloses a database containing user uploaded content which can be queried by hiring managers for job seekers (Abstract) and actors/performers ([0055]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Liu, and Qian with Vizinia so as to provide a means for job seekers and hiring managers to contact while saving time (Vizinia, [0007]-[0008]).

38. As to claim 50, Hohenacker, Chu, and Qian do not disclose wherein said recorded performance categorized by subject matter, wherein said subject matter comprises one or more of said categories selected from actors, comedians, performers, job seekers, organ donors, venture capitalists.

However, Vizinia discloses a database containing user uploaded content which can be queried by hiring managers for job seekers (Abstract) and actors/performers ([0055]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Liu, and Qian with Vizinia so as to provide a means for job seekers and hiring managers to contact while saving time (Vizinia, [0007]-[0008]).

39. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Liu, and Qian as applied to claim 20, in view of Foroutan (US Pat. 7,162,433).

40. As to claim 26, Hohenacker, Liu, and Qian disclose the parent claim 20, but does not explicitly disclose said recorded performance is reviewed by a personal coach.

However, Foroutan discloses said recorded performance is reviewed by a personal coach (column 18, lines 18-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Liu, and Qian with Foroutan in order to allow industry experts to review and provide feedback to aspiring talent so as to improve the overall user experience.

41. Claims 41-42 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Qian, as applied to claims 38 and 39, in view of what is well known in the art.

42. As to claims 41 and 42, Hohenacker, Chu, and Qian do not disclose said studio user or a talent seeker pays a subscription to provide said demographic information.

However, charging a subscription fee for desired data that has been acquired is a common practice in the art. Therefore, Official Notice (see MPEP 2144.03) is taken that it would have been an obvious modification to one of ordinary skill in the art at the time of the invention to charge subscription fees to users wishing to access the data acquired by the remote studios.

43. As to claim 61, Hohenacker, Chu, and Qian do not disclose video conferencing between at least two studio users in at least two studios. However, Official Notice is taken that it was well known in the art to teleconference between two separate studios. Therefore, given the teachings of Hohenacker's geographically separate studios, it would have been obvious to one of ordinary skill in the art at the time of the invention allow video conferencing between those studios thereby creating broader appeal to the general public.

44. Claims 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Qian as applied to claim 38, in view of Chacker (US Pat. 6,578,008).

45. As to claim 48, Hohenacker, Chu, and Qian do not disclose and wherein said studio operator is automatically electronically notified via an email message when performance exceeds a pre-determined rating.

However, Chacker discloses said studio operator is automatically electronically notified via an email message when a performance exceeds a pre-determined ratings threshold. (Chacker, column 13, lines 23-28; with claims 3 and 4 disclosing such information may be disseminated via email).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Qian, with Chacker so that system user's are aware of the activities of their system in real time.

46. Claims 1-6, 8-10, 13, 16, 45, 51-54, and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu et al (US Pat. 6,086,380), Hohenacker (WIPO Pub. No. WO/2002/080519 A2), Foroutan (US Pat. 7,162,433), in further view of Qian et al (US Pub. No. 2002/0189429).

47. As to claim 1, Chu discloses an interactive personal service provider for video communication having a enclosed studio (Fig. 1 and column 6, lines 32-37) comprising:

a registration center (column 8, lines 24-29);

an audio and video recorder to record at least one performance thereby making a recorded performance (column 6, lines 58-61 and column 7, lines 28-31; video camera and microphone record performance;

at least one computer server for storing said recorded performance (column 15, line 66-column 16, line 11) computer stores recorded performance) further comprising:

an audio and video player to preview said recorded performance (column 4, lines 47-56); and

a database to receive input information from a studio user that relates to said recorded performance (column 12, lines 34-48, a studio user inputs various information in order to make selections in regards to their performance).

But, Chu does not explicitly disclose that the registration center is outside said enclosed studio. However, this is simply a rearrangement of known parts that would not modified the operation of Chu's system and is even explained as such in the applicant's specification, see applicant's specification page lines 2-6, i.e. is optionally located inside or outside the studio, and as such does modify the operation of the device. *In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)* (Claims to a hydraulic

power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); *In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)* (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice)

But, Chu does not disclose the computer server further comprises a communication connection to transmit said recorded performance to a studio server in communication with a streaming server wherein said site enable a plurality of viewers to view said recorded performance from said streaming server.

However, Hohenacker discloses a computer server comprising a communication connection transmitting a recorded performance to a studio server (Abstract and [0040]) in communication with a streaming server wherein said site enable a plurality of viewers to view said recorded performance from said streaming server ([0042], Internet server reads on streaming server).

Therefore it would have been obvious at the time of the invention to combine the teachings of Chu and Hohenacker in order to provide recorded performances to remote locations whereupon a larger audience will be exposed to a user's performance.

But, neither Chu nor Hohenacker disclose that said recorded performance is automatically categorized into a category on said studio

site based on input information provided by the studio user on the streaming server.

However, Foroutan discloses that said that said recorded performance is automatically categorized into a category on said studio site based on input information provided by the studio user on the streaming server (column 30, lines 30-49, an artist submits a song (recorded performance) and inputs information in regards to which genre or category the song belongs and is stored in a database with that information available to be used by reviewers; further the TPICS server is available over a network, see Fig. 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu and Hohenacker with Fouroutan in order to allow reviewers of recorded performances to view performances in genres or categories they would like to view.

Lastly, the above referenced prior arts do not explicitly disclose any headphones inside the enclosed studio or recording only a raw voice of a studio user.

However, Qian discloses a recording system and method which includes the use of headphones and the recording of only a raw voice of a performer (Fig. 2, label 55 and [0009]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu, Hohenacker,

and Fouroutan, with Qian in order to allow users to record their singing and have it be played with other audio files (Qian, [0009]).

48. As to claim 51, Chu discloses an apparatus for distributing information to at least one information seeker said apparatus comprising:

a studio booth equipped with an audio and video recording device and located in a publicly accessible location column 6, lines 58-61 and column 7, lines 28-31; video camera and microphone record performance);

an audio and video player to preview said recorded performance(column 4, lines 47-56); and

a studio site having a studio server capable of re-encoding said recorded performance into a different media file connected to the studio booth (column 16, line 26-38) wherein a plurality of studio users can access the studio booth to upload said recorded performance (Abstract, anyone who pays the appropriate fees may use the booth).

But, Chu does not explicitly disclose that the registration center is outside said enclosed studio. However, this is simply a rearrangement of known parts that would not modified the operation of Chu's system and is even explained as such in the applicant's specification, see applicant's specification page lines 2-6, i.e. is optionally located inside or outside the studio, and as such does modify the operation of the device. *In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)* (Claims to a hydraulic power press which read on the prior art except with regard to the position

of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); *In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)* (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice)

Further, Chu does not disclose multiple studio booths and a streaming server connected to said studio site to transmit said recorded performance.

However, Hohenacker discloses multiple studio booths ([0001]) a computer server comprising a communication connection transmitting a recorded performance to a studio server (Abstract and [0040]) in communication with a streaming server wherein said site enable a plurality of viewers to view said recorded performance from said streaming server ([0042], Internet server reads on streaming server).

Therefore it would have been obvious at the time of the invention to combine the teachings of Chu and Hohenacker in order to provide recorded performances to remote locations whereupon a larger audience will be exposed to a user's performance.

But, neither Chu nor Hohenacker disclose that said recorded performance is automatically categorized into a category on said studio site.

However, Foroutan discloses that said that said recorded performance is automatically categorized into a category on said studio site based on

input information provided by the studio user on the streaming server (column 30, lines 30-49, an artist submits a song (recorded performance) and inputs information in regards to which genre or category the song belongs and is stored in a database with that information available to be used by reviewers; further the TPICS server is available over a network, see Fig. 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu and Hohenacker with Fouroutan in order to allow reviewers of recorded performances to view performances in genres or categories they would like to view.

Lastly, the above referenced prior arts do not explicitly disclose any headphones inside the enclosed studio.

However, Qian discloses a recording system and method which includes the use of headphones and the recording of only a raw voice of a performer (Fig. 2, label 55 and [0009]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu, Hohenacker, and Fouroutan, with Qian in order to allow users to record their singing and have it be played with other audio files (Qian, [0009]).

49. As to claims 2 and 57, Fouroutan discloses a studio operator can query said database said category for criteria specified by an information seeker (column 30, lines 30-49).

50. As to claim 3, Hohenacker discloses a viewer is restricted from viewing said input information of said studio user on said site ([0093]).

51. As to claims 4 and 58, Foroutan discloses a viewer purchases said recorded performance from a studio operator (column 16, lines 6-18).

52. As to claim 5, Hohenacker disclose providing demographic information with the performance (Hohenacker, [0030]) and Chu discloses a professional media kit is produced from said input information and said recorded performance (column 16, lines 25-45, CD or VCR is made at the conclusion of the performance; as Chu allows for “a personal message” the demographic information disclosed in Hohenacker could easily be included with the professional media kit of Chu).

53. As to claim 6, Foroutan discloses an information seeker can query said input information (column 30, lines 30-49).

54. As to claim 8, Foroutan discloses said recorded performance is reviewed by a personal coach (column 18, lines 18-32).

55. As to claim 9, Hohenacker discloses said recorded performance comprises a Karaoke-style performance performed in said studio ([0079]).

56. As to claim 10, Chu discloses said studio is substantially soundproof (Fig. 1, and column 2, lines 39-48).

57. As to claims 13 and 53-54, Hohenacker discloses said studio site comprises a website ([0050]).

58. As to claims 16 and 60, Hohenacker discloses a live video conferencing capability ([0079]).

59. As to claim 45, Hohenacker and Chu discloses the parent claim 38, but do not explicitly disclose said recorded performance is reviewed by a personal coach.

However, Foroutan discloses said recorded performance is reviewed by a personal coach (column 18, lines 18-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chu with Foroutan in order to allow industry experts to review and provide feedback to aspiring talent so as to improve the overall user experience.

60. As to claim 59, Hohenacker discloses said recorded performance comprises at least two studio users in at least two separate locations ([0001]).

61. As to claim 52, it is rejected by the same rationale set forth in claim 1's rejection.

62. Claims 12, 14-15, 17-19, and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu, Hohenacker, Foroutan, and Qian as applied to claims 1 and 51, in further view of Chacker (US Pat. 6,578,008).

63. As to claim 12, Hohenacker, Chu, Foroutan, and Qian do not disclose said studio user electronically contracts with said studio operator for an exclusive agency contract for said recorded performance.

However, Chacker discloses an uploading artist electronically contracts with a studio operator for an exclusive agency contract for an uploaded performance (column 7, lines 8-25).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Foroutan, and Qian with in order to recruit talent (Chacker, column 4, lines 23-26).

64. As to claims 14 and 55, Hohenacker, Chu, Foroutan, and Qian do not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.

However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Foroutan, and Qian with Chacker in order to create a user friendly interface by making the recorded performances more accessible.

65. As to claim 15, Hohenacker, Chu, Foroutan, and Qian do not disclose a menu on said studio site allows user created categories and sub-categories.

However, Chacker discloses a menu on a studio site allows user created categories and sub-categories (column 10, lines 30-35; it is essential that all the categories be created by a user at some point, and further that users set the classification of the works).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Foroutan, and Qian with Chacker in order to create a user friendly interface by making the recorded performances more accessible.

66. As to claims 17 and 56, Hohenacker, Chu, Foroutan, and Qian do not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.

However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Foroutan, and Qian with Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

67. As to claim 18, Chacker discloses an information seeker is electronically notified when ratings from one or more viewers exceeds a pre-determined ratings threshold (Chacker, column 13, lines 23-28).

68. As to claim 19, Chacker discloses a studio operator is electronically notified when ratings from said viewers exceeds a predetermined ratings threshold (Chacker, column 13, lines 23-28).

69. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chu, Hohenacker, Foroutan, and Qian as applied to claim 1, in further view of Maroney.

70. As to claim 7, Chu, Hohenacker, Foroutan, and Qian disclose the parent claim 1, but do not disclose at least one information seeker bids to enter into contract negotiations with said studio user.

However, Maroney discloses a bidding system in which a bidder bids enter negotiations with a seller ([0026], "it is preferred that priority for admission to the second stage of negotiations be awarded by rank ordering the participants in the auction by the value of their final bid. Thus, the participant having the highest final bid at the close of the auction is preferably the first invited to enter a bilateral negotiation with the domain name registrant."; Note Maroney's bidding system is not limited to domain name registry auctions, see for example claims 1 and 6, but is an exemplary embodiment, i.e. see claim 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu, Hohenacker, Foroutan, and Qian with Maroney in order conduct fair auctions that benefit both a buyer and the seller.

71. Claim 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu, Hohenacker, Foroutan, and Qian as applied to claim 1, in view of what was well known in the art.

72. As to claim 11, Hohenacker, Chu, and Foroutan do not disclose said audio and video recorder enables said studio user to transmit only one recording from at least two performances recorded by said studio user in said studio.

However, allowing a user to make multiple recordings and uploading only one of those recording to a remote site would have been an obvious modification to one of ordinary skill in the art given the teachings of Chu, which allows for previews. Specifically, it is a common practice in the art to review, and if necessary rerecord poor performances, and only utilize one of the recordings. Therefore, Official Notice (see MPEP 2144.03) is taken that practice was well known in the art and is implemented in order allow the user to make errors and correct those errors.

Conclusion

73. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.

74. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on 571-272-6967.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

75. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. J. D./
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